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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/629,208	07/29/2003	Eiji Ozawa	8373.311US01	5663
7590 04/17/2008 Hamre, Schumann, Mueller & Larson, P.C. P. O. Box 2902-0902 Minneapolis, MN 55402				
EXAMINER				
COOLMAN, VAUGHN				
ART UNIT		PAPER NUMBER		
3618				
MAIL DATE		DELIVERY MODE		
04/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/629,208

Applicant(s)

OZAWA ET AL.

Examiner

VAUGHN T. COOLMAN

Art Unit

3618

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 March 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7, 10-17 and 19-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-7, 10-17, 19, 20 and 24 is/are allowed.
- 6) ☒ Claim(s) 21-23 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(c), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(c) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 03/19/2008 has been entered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Infante et al (W.O. 97/09223) in view of Seider (U.S. Patent No. 2,435,021) and further in view of Ethier (U.S. Patent No. 4,662,468).

[claim 21] Infante discloses a four-wheeled vehicle (FIG 1) including:

- a steering mechanism having a bar handle (41);
- a front part having right and left front wheels (24 and 24");
- a rear part having right and left rear wheels (24" and 24");
- a driver's seat (21) disposed at said front part;

a rear passenger seat (21') disposed behind said driver's seat with a backrest for the driver therebetween and the rear passenger seat facing forwardly, the rear passenger seat being entirely positioned forwardly of forwardmost points of the rear wheels (FIG 3). Infante further shows the front and rear wheels defining a straight line at a level extending in a longitudinal direction through the uppermost points of the front and rear wheels.

an engine (9) disposed below the rear passenger seat (21');
the vehicle having a width and an overall length;

Infante does not disclose the specific relationship between the width and length of the vehicle, show the rear passenger seat having bulged portions allowing two passengers to sit thereon side-by-side, or the driver's seat and the rear passenger seat cooperating to form a single seat with a backrest being positioned at an intermediate part of the single seat. Regarding the length and width relationship, Infante does disclose (page 7, claim 9) that the vehicle can utilize a wider chassis than that shown. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle of Infante by producing it in different and varying lengths and widths including an iteration wherein the width is substantially half the overall length. One of ordinary skill in the art at the time the invention was made would have no trouble resizing parts in order to produce a vehicle having the width to length ratio described above.

Seider teaches a vehicle with a bar handle steering mechanism, said vehicle having a rear passenger seat (a) disposed behind a driver's seat (145) wherein the rear passenger seat has bulged portions (portions rendering the seat wider than driver's seat) provided at opposite sides thereof for providing a larger width than the driver's seat, and the bulged portions would

obviously allow the rear passenger seat to be occupied by two passengers sitting thereon side-by-side. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the vehicle shown by Infante with the rear passenger seat of Seider in order to provide the advantage of shortening the wheelbase of Infante's vehicle without reducing passenger capacity. Shortening the wheelbase would enhance handling even further.

Infante also does not show more of the driver's seat in side view being located below the straight line than above it. Infante does show the rear passenger seat being disposed at a higher level than the driver's seat. Examiner notes that one of the most common modifications to a four-wheeled vehicle is to replace the stock wheels with larger wheels. The vehicle shown by Infante could certainly accommodate larger wheels. Inspection of FIG 3 of Infante appears to show that a larger wheel size would locate the driver's seat at substantially the same level as the straight line, such that in side view, more of the driver's seat is located below the straight line than above it so long as some of the driver's seat is located above the straight line, said vehicle with driver and passenger would still maintain a low center of gravity. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Infante with larger wheels in order to provide the advantage of higher speeds and visually pleasing customization as is common in the art.

Ethier teaches a vehicle having bar handle steering mechanism and two front wheels (3, 4) including a driver's seat (5) and a rear passenger seat cooperating with each other to provide a single seat, with a backrest being positioned at an intermediate part of the single seat (column 4, lines 43-44). The "rear section slightly heightened as on motorcycles" has been shown in art presented to the applicant previously and therefore no discussion of whether a backrest is

disclosed by Ethier is warranted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Infante as modified by Seider with the straddle type seat of Ethier in order to provide the advantage of allowing a motorcycle type vehicle as shown by Infante to be driven in the position that a motorcycle driver is accustomed to, thereby increasing driver comfort.

In re the length and width requirements recited in lines 1-2, examiner notes that motorcycles come in many different lengths. For example a "pocket bike" is about 20 inches in overall length, whereas a "chopper" can be easily upwards of 16 feet in length. Furthermore, the size of a vehicle is a design choice that changes with the intended use of the vehicle. As such, the four-wheeled vehicle disclosed by Infante certainly meets the broadest reasonable interpretation of "having substantially the same overall length as a motorcycle".

Claims 22 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Infante in view of Seider and further in view of Kurata (U.S. Patent No. 4,606,429) and Ethier (U.S. Patent No. 4,662,468).

[claim 22] Infante in view of Seider discloses all of the elements of the claimed invention as described above in re claim 21 except for roll bars. Kurata teaches (see FIGS 1-3) a vehicle utilizing a similar seating configuration as that of Infante wherein a front roll bar (7) is disposed in front of a driver's seat (14) and in an upright position; a rear roll bar (9) is disposed behind a rear passenger seat (15) and in an upright position; and said front roll bar and said rear roll bar providing a straight line extending through the vicinities of top ends thereof, said straight line having a space defined therebelow to allow a driver and a rear passenger to sit on said

driver's seat and said rear passenger seat, respectively, within said space. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the vehicle shown by Infante as modified by Seider, with the roll bars as taught by Kurata, since such a modification would provide the advantage of protecting the passengers from head injury in the event of a rollover of the vehicle. Examiner reminds applicant of the previous examiner's observation wherein it was noted that the ability of a driver and passenger to sit within the space defined above is entirely dependent upon the height of each person, furthermore, sitting posture could also play a role in this limitation.

Infante does not show the driver's seat and the rear passenger seat cooperating to form a single seat with a backrest being positioned at an intermediate part of the single seat. However, Ethier teaches a vehicle having bar handle steering mechanism and two front wheels (3, 4) including a driver's seat (5) and a rear passenger seat cooperating with each other to provide a single seat, with a backrest being positioned at an intermediate part of the single seat (column 4, lines 43-44). The "rear section slightly heightened as on motorcycles" has been shown in art presented to the applicant previously and therefore no discussion of whether a backrest is disclosed by Ethier is warranted. It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus shown by Infante as modified by Seider with the straddle type seat of Ethier in order to provide the advantage of allowing a motorcycle type vehicle as shown by Infante to be driven in the position that a motorcycle driver is accustomed to, thereby increasing driver comfort.

[**claim 23**] The combination would further show the backrest being “positioned” at the same level as the waist of the driver sitting on the driver's seat, as is common in the motorcycle art to which Ethier referred.

Allowable Subject Matter

Claims 1-7, 10-17, 19, 20, and 24 are allowed. Examiner is accepting applicant's narrow definition of the word “underneath”.

Response to Arguments

Applicant's arguments with respect to claims 21-23 have been considered but are moot in view of the new ground(s) of rejection. Ethier does teach the seat structure as claimed and is described adequately above in the rejections of claims 21 and 22.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to VAUGHN T. COOLMAN whose telephone number is (571)272-6014. The examiner can normally be reached on Monday thru Friday, 8am-6pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Ellis can be reached on (571) 272-6914. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher P Ellis/
Supervisory Patent Examiner, Art Unit 3618

VAUGHN T COOLMAN
Examiner
Art Unit 3618

/V. T. C./
Examiner, Art Unit 3618